

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK
MAXIMINO ESTRADA,

Petitioner,

v.

9:05-CV-0549
(DNH)(DRH)

CALVIN WEST, Superintendent,

Respondent.

APPEARANCES:

OF COUNSEL:

MAXIMINO ESTRADA
Petitioner, pro se

OFFICE OF THE ATTORNEY GENERAL
State of New York
Counsel for Respondent

MALANCHANA CHANDRA, ESQ.
Assistant Attorney General

DAVID R. HOMER, U.S. MAGISTRATE JUDGE

ORDER

By Order filed June 9, 2006, this Court granted the request of *pro se* petitioner Maximino Estrada to stay this proceeding while he returned to state court to exhaust his ineffective assistance of counsel claim. Dkt. No. 12. The stay was expressly conditioned upon petitioner's timely pursuit of his state law claims and petitioner was directed to commence those proceedings within thirty days of the filing date of the Court's Order. *Id.* at 4. Petitioner was further directed to advise the Court every sixty days of the status of his state court actions and to file a motion to amend his petition in this action within thirty days of the resolution of those state court proceedings. *Id.*

More than fourteen months have elapsed since petitioner's status report was to have been filed. Petitioner has not submitted the required report, nor has he otherwise communicated with the Court regarding this matter.

Based upon the foregoing, the stay of this action is lifted and the Clerk is directed to forward this matter to the Court for consideration of the original petition.¹

WHEREFORE, it is hereby

ORDERED, that the stay of this action is **lifted**, and it is further

ORDERED, that the file in this matter be sent to the Court for consideration of the original petition, and it is further

ORDERED, that the Clerk serve a copy of this Order upon the parties.

IT IS SO ORDERED.

Dated: December 21, 2007
Albany, New York



United States Magistrate Judge

¹ The respondent has filed a response to the petition. Dkt. Nos. 7, 8.